

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

PUBLIC NOTICE

UPDATE TO LOCAL RULE 40.1 ASSIGNMENT OF CASES

The United States District Court for the District of Massachusetts is publishing for comment the attached update to **Local Rule 40.1 Assignment of Cases**, sections (g), (h), (i), and (j). The proposed update replaces the listed sections in their entirety. There is no redline version of the changes.

The attached update and the current rules may be viewed through the following link:

<http://www.mad.uscourts.gov/general/rules-home.htm>

Those wishing to comment on the proposed amendment to the Local Rules for the District of Massachusetts may do so in writing or by email. All comments must be received on or before July 7, 2020 and should be addressed to:

Robert M. Farrell, Clerk of Court
United States District Court
One Courthouse Way - Suite 2-300
Boston, MA 02210

or by email to: rules@mad.uscourts.gov

This public notice has been posted to the “Announcements” and “Rules” pages of the court’s web site at <http://www.mad.uscourts.gov>.

June 9, 2020

/s/ Robert M. Farrell
Clerk of Court

RULE 40.1 ASSIGNMENT OF CASES

(g) Related Civil Cases.

- (1) Definition of “Related” Civil Cases.** For purposes of this rule, a civil case shall be deemed related to another civil case only if:

 - (A) some or all of the parties are the same; and
 - (B) one or more of the following similarities exist:

 - i. the cases involve the same or substantially similar issues of fact;
 - ii. the cases arise out of the same occurrence, transaction or property;
 - iii. the cases involve insurance coverage for the same property, transaction or occurrence.
- (2) Criminal and Civil Cases.** For the purposes of this rule, a civil case shall be deemed related to a criminal case only if:

 - (A) the civil case involves forfeiture of property from a transaction or occurrence that is the subject of a previously filed criminal case, enforcement of a restitution order or fine imposed in a previously filed criminal case or if it seeks some other form of civil enforcement relief relating to a previously filed criminal case.
- (3) Common Question of Law Not Sufficient.** Civil cases, even when they involve some or all of the same parties, shall not be deemed related to each other solely on the ground that they:

 - (A) involve the same or substantially similar challenges to a law, regulation, or government policy or practice; or
 - (B) otherwise involve a common question of law.
- (4) Time Limitation.** Civil cases shall not be deemed related if more than two years have lapsed since the closing of the earlier case.
- (5) Designation of Relatedness.** If the plaintiff (or other party filing the initial pleading) believes that the case is related to any earlier filed case, whether or not the earlier case is still open (provided that not more than two years has elapsed since the closing of the earlier case), that party shall:

 - (A) notify the clerk by notation on the civil category sheet indicating the title and number of the earlier filed case; and

- (B) file a written certification in the later-filed case specifically stating the basis for designating the two cases as related.
- (C) Unless good cause is shown, designation of relatedness by plaintiff (or other party filing the initial pleading) shall be made at the time of the filing of the initial pleading.

(6) Objection to Designation of Relatedness or Lack of Designation of Relatedness.

- (A) If the defendant (or other responding party) believes that a case that has been designated as related should not have been so designated, that party shall file a motion in the later filed case to return the case to the clerk for reassignment.
- (B) If the defendant (or other responding party) believes that a case that has not been designated as related should have been so designated, that party shall file a motion in the later filed case for the judge's consideration of transfer or reassignment of the case pursuant to Section i of this Rule.
- (C) Unless good cause is shown, objection to designation of relatedness or lack of designation of relatedness shall be made within 30 days of a responsive pleading being filed.

(7) Assignment by Clerk. The clerk shall assign related cases to the same district judge without regard to the number of other cases in that category previously assigned to that judge. Related cases shall be counted as cases assigned, except as the chief judge may otherwise direct.

(8) Correction of Designation as "Related." The assignment of cases as related by the clerk shall be subject to correction only by the district judge to whom they have been assigned, who shall return cases erroneously assigned on that basis to the clerk for reassignment.

(9) Correction of Designation as "Not Related." The treatment of a case as not related to another case shall be subject to correction only by the joint decision of the district judge to whom it has been assigned and the district judge to whom it should be assigned, if related to an earlier filed case. The judges may then transfer the case pursuant to Section i of this Rule and shall notify the clerk of the transfer.

(h) Proceedings after Assignment. Unless otherwise ordered by the court, all proceedings in a case after its assignment shall be conducted before the district judge to whom it has been assigned, except as otherwise provided in these rules. This subsection does not preclude reassignment of cases by the court or the clerk, at the direction of the court, without prior notice to the parties.

(i) **Reassignment and Transfer of Cases.**

(1) ***Generally.*** In the interest of justice or to further the efficient performance of the business of the court, a district judge may return a case to the clerk for reassignment, whether or not the case is related to any other case, with the approval of the chief judge, or, with respect to civil cases only and whether or not the case is related to any other case, may transfer the case to another district judge, if the other judge consents to the transfer.

(2) ***Transfers of Criminal Cases.*** A district judge may transfer a criminal case to another district judge, with the consent of (1) the other judge, (2) the chief judge, and (3) the parties in the transferred case, in order to permit a defendant charged in multiple criminal cases to plead guilty, to stand trial, to be sentenced, or otherwise to address in a single proceeding multiple criminal cases in which that defendant has been charged.

(j) **Motion for Consolidation of Cases.** A motion for consolidation of two or more cases shall be made in the case first filed in this court.
